# "MENTAL ILLNESS" & POLICE BRUTALITY

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**Despite intense Western scrutiny of Russian psychiatric "abuses," critics of Soviet psychiatry have been unable to turn up a single case in which Russian psychiatrists have "hospitalized" and "treated" someone who, in the hospitalizing psychiatrist's own opinion, was not mentally ill and did not need psychiatric treatment. However, precisely such a case exists now in the United States.**

**The case is that of Robert H. Torsney, a white policeman in New York, who on Thanksgiving Day in 1976 shot and killed a 15-year-old black youth in Brooklyn. After being acquitted of the manslaughter charge on a plea of insanity, Torsney was committed, as required by law, to the custody of the New York State Department of Mental Hygiene. According to the legal-psychiatric fiction that was henceforth to govern his fate, he was confined in order to be observed, examined, and if necessary treated—not in order to be punished. He was, after all, "not guilty" of any crime. In** due course, again as required by law, the Department of Mental Hygiene reported back to the committing court about the "patient's" status. The report, based on observing Torsney for about a year, was that he was not mentally ill, was not a danger to himself or others, and should therefore be released forthwith. Justice Leonard Yoswein, the New York State Supreme Court judge in Brooklyn who had to rule on the case, held nine days of hearings, during which eighteen psychiatrists testified. All the expert witnesses agreed that "Officer Torsney was not psychotic and was not a danger to himself or others." In the decision he handed down, Judge Yoswein noted that "evidence also indicates that the patient was not suffering from mental illness during the entire period that the patient has been in the custody of Mental Hygiene . . . Mr. Torsney was not insane at any time during his commital." Accordingly, Judge Yoswein ordered Torney released.

Predictably, this judicial decision led to an outcry in the black community in Brooklyn. It also led to what the New York *Times* characterized as "a rare appeal by the District Attorney's office of the lower court's finding in an insanity-defense case." Predictably, the appeal was successful. On February 6, 1979, the Appellate Division of the State Supreme Court reversed Justice Yoswein's ruling. In a unanimous, 20-page decision, the five-judge panel ordered that Torsney's commitment be continued. "We may not shirk our responsibility to the community by prematurely releasing Mr. Torsney while he continues to suffer from a dangerous personality disorder," the panel said. The appeals court also justified continuing Torsney's psychiatric confinement and "treatment" by noting that "he might face continued stress from a departmental hearing, possible suits, financial stress, and threats."

In an editorial remark on these goings-on, the New York *Times* (February 11) laconically observed that "Freedom [is] fleeting for Officer Torsney." In the same issue of the

*Times*, in a story about Pakistan's recent turn to Islamic laws, we learned that in the case of two Pakistanis sentenced to have their hands chopped off, the sentence could not be carried out because "the military courts have been unable to find a surgeon willing to perform the operation." It is surely worth noting that American courts never encounter any difficulty having their sentences carried out by psychiatric executioners—as the case of Robert Torsney dramatically illustrates.

Consider the brutal facts—and the psychiatric fictions—in this case. After observing and examining Torsney for more than a year, psychiatrists in the New York State Department of Mental Hygiene—at all levels, from those directly in charge of the case to those in the highest ranks of the bureaucracy—have declared that Torsney is not mentally ill, is not dangerous to himself or others, requires no psychiatric treatment, and should therefore be released from psychiatric "hospitalization." In this ostensibly medical judgment, the psychiatric experts have been overruled by a group of laymen, called judges. Despite the Mental Hygiene Department's own determination that Torsney is not mentally ill and should be released, the courts—and the Department—have evidently had no trouble finding psychiatrists to imprison and "treat" Torsney. In my opinion, these facts make this a more obvious and more convincingly demonstrated case of psychiatric abuse than any of those reported from the Soviet Union.

Of course, Torsney should never have been acquitted as insane. No one should be. The "psychomotor epilepsy" allegedly causing him to kill his victim was pure psychiatric fiction. No neurologist testified in the case. Actually, neurologists do not believe that epilepsy (real or pretended) causes crime. Only psychiatrists believe that. And even psychiatrists believe it only when it suits their purpose. When, at the Appeals Court hearing, Alfred B. Annenberg, the attorney representing the New York State Mental Hygiene Department, was chided by the justices for insisting that Torsney was sane despite having been acquitted as insane, Annenberg, probably quite unwittingly, tore the mask off the official face of institional psychiatry. "Your Honor," he reminded the court, "the Department of Mental Hygiene bears no responsibility for what happened at the trial—miscarriage of justice or whatever. . . . No one could find one violent act in this man's life except for two seconds killing Randolph Evans." Unrelenting in their quest for a diagnosis of insanity, the judges badgered Annenberg, asserting that Torsney "suffered from a rare form of epilepsy." Evidently losing his cool, Annenberg shot back that, had he been at the trial, "I would have had four experts to testify there's no such thing."

Of course, Torsney should not have been, and should not continue to be, imprisoned in a mental hospital. No one should be. The game Torsney, the psychiatrists, the lawyers, and the courts have played lays bare the evil inherent in psychiatric justice—namely, the principle that two wrongs make a right. The insanity acquittal was—and always is—a grave wrong. Imprisonment in the insane asylum was—and always is—another grave wrong. These two wrongs add up to a practical right. A crime has been explained, excused, and avenged. Who could ask for more?

Pathetically, Department of Mental Hygiene psychiatrists—trying, for a change, to be honest—claim to be unable to "find" any mental illness in a "killer" like Torsney. Piously, State Supreme Appeals Court judges—trying, as usual, to cater to the public passions which they think is justice—remind them of their duty to find it. Voltaire is reputed to have said that if there were no God, we would have to invent Him. Obviously, if there were no mental illness, we would have to invent it. *Le plus ça change, le plus c'est la même chose.* ❑

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